

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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Porter H. Johnson # 236860

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

South Carolina Dept. of Corrections
(SCDC)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil
Rights
(Prisoner Complaint)

Case No. 9:19-cv-1169-HMH-BM
(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

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NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Porter H. Johnson
 All other names by which you have been known:
Porter H. Johnson, Jr
Porter P. H. Johnson
 ID Number 236860
 Current Institution Lee Correctional Institution F3-1145
 Address 990 Wisacky Hwy
Bishopville, S.C. 29010

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name South Carolina Dept. of Corrections (SCDC)
 Job or Title
 (if known) _____
 Shield Number _____
 Employer State of South Carolina
 Address 4444 Broad River Rd
Columbia, S.C.
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name _____

Job or Title _____
 (if known)
 Shield Number _____
 Employer _____
 Address _____

☐ Individual capacity ☐ Official capacity

Defendant No. 3

Name _____
 Job or Title _____
 (if known)
 Shield Number _____
 Employer _____
 Address _____

☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name _____
 Job or Title _____
 (if known)
 Shield Number _____
 Employer _____
 Address _____

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Double Jeopardy, Due Process, + Matter of Law
However not limited to that.
Under Both State/Federal Statutes

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attached

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee

D.

The Plaintiff can and will prove to the Honorable Court that SEDC has violated ~~both~~ ^{both} State/Federal Statutes along with violating SEDC on policy/procedure. The Plaintiff can and will prove that SEDC lied (more than once) and covered up lies to the South Carolina Administrative Law Court. These are the following:

1. Due Process Violations for placing an 901 Class I Escape on the Plaintiff's record without a hearing
2. Double Jeopardy violations based on the fact that the Plaintiff was not charged nor convicted of a 901 Class I Escape (904 Poss. of Escape Tools was the charge and convicted of), however, the Plaintiff was (is still) being punished for a charge that he was charge or convicted of.
3. Matter of law in ALC Chief Administrative Law Judge, the Honorable Ralph K. Anderson clearly stated that SEDC can't base my classification on a charge that I wasn't charged and/or convicted of.

- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

McCormick Correctional Institution

Lee Correctional Institution

- C. What date and approximate time did the events giving rise to your claim(s) occur?

10/2016 - ~~at~~ Grievance MCCI-0440-16)

1/2017 - (Grievance MCCI-0041-17)

12/2017 - (Grievance Lee C.I. - 0726-17)

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attach

D.

The Plaintiff can and will prove the following

- a) the Plaintiff was placed in Security Detention (SD) for over a years for a charge that he was not convicted of.
- b) the Plaintiff still has the 901 Class I Escape on his record despite what SCDC tells the ALC.
- c) the Plaintiff will show that SCDC was (is still) punishing the Plaintiff.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

N/A

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See Attach

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

Relief

The Plaintiff is asking for the following damages:

- a) for punitive damages - the Plaintiff ask for \$250,000
- b) for pain and suffering - the Plaintiff ask for \$250,000
- c) for SCDC to remove the Class I Escape ^{from} ~~for~~ the Plaintiff record immediately
- d) for being placed on SD (Security Detention) for over a year \$1500 a day (also include be place in a reduced custody for 2 years a day).

The Plaintiff can and will show the reasoning for the claim:

- a) SCDC will fully knows that the 901 Class I Escape is still on the Plaintiff's record.
- b) SCDC knowingly lied to the court more than once, and is still lying.
- c) the Plaintiff was placed on medicine for mental health due to both the Class I Escape (901) and for the ^{riot} ~~riot~~
- d) the Plaintiff would have been in a Blic dorm, and would not have been housed in the dorm that were the riot start at.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

McCormick Correctional Inst.

Lee Correctional Inst.

386 Redemption Way

990 Wisacky Hwy

McCormick, S.C.

Bishopville, S.C. 29010

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Placing a charge on the Plaintiff's record (901 Class I Escape)
that he wasn't charged nor convicted of.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

10/2016 (Grievance # MCCI-0440-16) McCormick Corr. Inst.

1/2017 (Grievance # MCCI-0041-17) McCormick Corr. Inst.

12/2017 (Grievance # Lee C.I.-0726-17) Lee Corr. Inst.

2. What did you claim in your grievance?

That SEDC placed an 901 Class I Escape on my record and
to this day SEDC hasn't taken the 901 Class I Escape
off my record.

3. What was the result, if any?

SEDC tell me that (in both Step 1 + 2 Grievance) my grievance
was denied, however will state to the Administrative Law
Court that it was taken off. But it has ^{not} been taken
off my record.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

MCCI-0440-16 was appeal and granted (Porter Johnson v SEDC

MCCI-0041-17 was appeal and was dismissed (17-AW-04-0129-AP)

Lee C.I.-0726-17 was appeal and was dismissed (18-AW-04-0159-AP)

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

The Plaintiff wrote to the Staff Attorney Ms. Annie L. Rumlér about this problem, but states to the court that it was already taken off on his record, the Plaintiff will prove that she lied to the court.
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____, 2019.

Signature of Plaintiff



Printed Name of Plaintiff

Porter H. Johnson

Prison Identification #

236860

Prison Address

Lee Correctional Institution - 990 Wilsack Hwy
Bishopville S.C. 29010

City

State

Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

Telephone Number

E-mail Address
